

110TH CONGRESS  
2D SESSION

# S. 2904

To improve Federal agency awards and oversight of contracts and assistance and to strengthen accountability of the Government-wide suspension and debarment system.

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## IN THE SENATE OF THE UNITED STATES

APRIL 24, 2008

Mrs. McCASKILL introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To improve Federal agency awards and oversight of contracts and assistance and to strengthen accountability of the Government-wide suspension and debarment system.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Contractors and Fed-  
5       eral Spending Accountability Act of 2008”.

6       **SEC. 2. DATABASE FOR CONTRACTING OFFICERS AND SUS-**  
7       **PENSION AND DEBARMENT OFFICIALS.**

8       (a) IN GENERAL.—Subject to the authority, direc-  
9       tion, and control of the Director of the Office of Manage-

1 ment and Budget, the Administrator of General Services  
2 shall establish and maintain a database of information re-  
3 garding integrity and performance of persons awarded  
4 Federal contracts and grants for use by Federal officials  
5 having authority over contracts and grants.

6 (b) PERSONS COVERED.—The database shall cover  
7 any person awarded a Federal contract or grant if any  
8 information described in subsection (c) exists with respect  
9 to such person.

10 (c) INFORMATION INCLUDED.—With respect to a  
11 person awarded a Federal contract or grant, the database  
12 shall include information (in the form of a brief descrip-  
13 tion) for at least the most recent 5-year period regarding  
14 the following:

15 (1) Each civil or criminal proceeding, or any  
16 administrative proceeding, with respect to the person  
17 during the period to the extent that such proceeding  
18 results in the following dispositions and the payment  
19 of a monetary fine, penalty, reimbursement, restitu-  
20 tion, damages, or settlement to a government of  
21 \$5,000 or more, concluded by the Federal Govern-  
22 ment or any State government against the person:

23 (A) In a criminal proceeding, a conviction.

24 (B) In a civil or administrative proceeding,  
25 a finding of liability.

1 (C) In a civil or administrative proceeding,  
2 a disposition of the matter by consent or com-  
3 promise if the proceeding could have led to ei-  
4 ther of the outcomes specified in subparagraph  
5 (A) or (B).

6 (2) Each Federal contract and grant awarded  
7 to the person that was terminated in such period  
8 due to default.

9 (3) Each Federal suspension and debarment of  
10 the person in that period.

11 (4) Each Federal administrative agreement  
12 signed with the person in that period if the pro-  
13 ceeding concerned could have led to either of the  
14 outcomes specified in subparagraph (A) or (B) of  
15 paragraph (1).

16 (5) Each final finding by a Federal official in  
17 that period that the person has been determined not  
18 to be a responsible source under either subparagraph  
19 (C) or (D) of section 4(7) of the Office of Federal  
20 Procurement Policy Act (41 U.S.C. 403(7)).

21 (d) REQUIREMENTS RELATING TO INFORMATION IN  
22 DATABASE.—

23 (1) DIRECT INPUT AND UPDATE.—The Admin-  
24 istrator shall design and maintain the database in a  
25 manner that allows the appropriate officials of each

1 Federal agency to directly input and update in the  
2 database information relating to actions it has taken  
3 with regard to contractors or grant recipients.

4 (2) TIMELINESS AND ACCURACY.—The Admin-  
5 istrator shall develop policies to require—

6 (A) the timely and accurate input of infor-  
7 mation into the database;

8 (B) notification of any covered person  
9 when information relevant to the person is en-  
10 tered into the database; and

11 (C) an opportunity for any covered person  
12 to append comments to information about such  
13 person in the database.

14 (e) AVAILABILITY.—

15 (1) AVAILABILITY TO ALL FEDERAL AGEN-  
16 CIES.—The Administrator shall make the database  
17 available to all Federal agencies.

18 (2) AVAILABILITY TO THE PUBLIC.—The Ad-  
19 ministrator shall make the database available to the  
20 public by posting the database on the General Serv-  
21 ices Administration website.

22 (3) LIMITATION.—This subsection does not re-  
23 quire the public availability of information that is  
24 exempt from public disclosure under section 552(b)  
25 of title 5, United States Code.

1 **SEC. 3. REVIEW OF DATABASE.**

2 (a) REQUIREMENT TO REVIEW DATABASE.—Prior to  
3 the award of a contract or grant, an official responsible  
4 for awarding a contract or grant shall review the database  
5 established under section 2.

6 (b) REQUIREMENT TO DOCUMENT PRESENT RE-  
7 SPONSIBILITY.—In the case of a prospective awardee of  
8 a contract or grant against which a judgment or conviction  
9 has been rendered more than once within any 3-year pe-  
10 riod for the same or similar offences, if each judgment  
11 or conviction is a cause for debarment, the official respon-  
12 sible for awarding the contract or grant shall document  
13 why the prospective awardee is considered presently re-  
14 sponsible.

15 **SEC. 4. DISCLOSURE IN APPLICATIONS.**

16 (a) REQUIREMENT.—Not later than 180 days after  
17 the date of the enactment of this Act, Federal regulations  
18 shall be amended to require that in applying for any Fed-  
19 eral grant or submitting a proposal or bid for any Federal  
20 contract a person shall disclose in writing information de-  
21 scribed in section 2(c).

22 (b) COVERED CONTRACTS AND GRANTS.—This sec-  
23 tion shall apply only to contracts and grants in an amount  
24 greater than the simplified acquisition threshold, as de-  
25 fined in section 4(11) of the Office of Federal Procure-  
26 ment Policy Act (41 U.S.C. 401(11)).

1 **SEC. 5. ROLE OF INTERAGENCY COMMITTEE.**

2 (a) REQUIREMENT.—The Interagency Committee on  
3 Debarment and Suspension shall—

4 (1) resolve issues regarding which of several  
5 Federal agencies is the lead agency having responsi-  
6 bility to initiate suspension or debarment pro-  
7 ceedings;

8 (2) coordinate actions among interested agen-  
9 cies with respect to such action;

10 (3) encourage and assist Federal agencies in  
11 entering into cooperative efforts to pool resources  
12 and achieve operational efficiencies in the Govern-  
13 mentwide suspension and debarment system;

14 (4) recommend to the Office of Management  
15 and Budget changes to Government suspension and  
16 debarment system and its rules, if such rec-  
17 ommendations are approved by a majority of the  
18 Interagency Committee;

19 (5) authorize the Office of Management and  
20 Budget to issue guidelines that implement those rec-  
21 ommendations;

22 (6) authorize the chair of the Committee to es-  
23 tablish subcommittees as appropriate to best enable  
24 the Interagency Committee to carry out its func-  
25 tions; and

1           (7) submit to the Congress an annual report  
2       on—

3                   (A) the progress and efforts to improve the  
4       suspension and debarment system;

5                   (B) member agencies' active participation  
6       in the committee's work; and

7                   (C) a summary of each agency's activities  
8       and accomplishments in the Governmentwide  
9       debarment system.

10       (b) DEFINITION.—The term “Interagency Committee  
11   on Debarment and Suspension” means such committee  
12   constituted under sections 4 and 5 and of Executive Order  
13   12549.

14   **SEC. 6. AUTHORIZATION OF INDEPENDENT AGENCIES.**

15       Any agency, commission, or organization of the Fed-  
16   eral Government to which Executive Order 12549 does not  
17   apply is authorized to participate in the Governmentwide  
18   suspension and debarment system and may recognize the  
19   suspension or debarment issued by an executive branch  
20   agency in its own procurement or assistance activities.

21   **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

22       There are authorized to be appropriated to the Ad-  
23   ministrators of General Services such funds as may be nec-  
24   essary to establish the database described in section 2.

1 **SEC. 8. REPORT TO CONGRESS.**

2 (a) REPORT REQUIRED.—Not later than 180 days  
3 after the date of the enactment of this Act, the Adminis-  
4 trator of General Services shall submit to Congress a re-  
5 port.

6 (b) CONTENTS OF REPORT.—The report shall con-  
7 tain the following:

8 (1) A list of all databases that include informa-  
9 tion about Federal contracting and Federal grants.

10 (2) Recommendations for further legislation or  
11 administrative action that the Administrator con-  
12 siders appropriate to create a centralized, com-  
13 prehensive Federal contracting and Federal grant  
14 database.

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